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RR RUEHPW
DE RUEHBUL #2752/01 2871130
ZNR UUUUU ZZH
R 131130Z OCT 08
FM AMEMBASSY KABUL
TO RUEHC/SECSTATE WASHDC 5820
INFO RUCNAFG/AFGHANISTAN COLLECTIVE
RUEKJCS/OSD WASHINGTON DC
RUEKJCS/JOINT STAFF WASHINGTON DC
RHMFIUU/HQ USCENTCOM MACDILL AFB FL
RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC
RUEAIIA/CIA WASHINGTON DC
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UNCLAS SECTION 01 OF 02 KABUL 002752

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E.O. 12958: N/A
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SUBJECT: Zabul Justice System Shows New Signs of Life

¶1. (SBU) Summary. In an August 6 public sentencing hearing attended by over 200 local and provincial officials and tribal elders, the invigorated Zabul Court of Appeals handed down five death and fourteen life sentences to a group charged with murdering ten people and wounding six more in Shajoy District. Zabul Governor Arman and Zabul's newly-installed judges and prosecutors intended the event as a demonstration of their determination to prosecute criminal defendants under the law. Increased public confidence in a more efficient justice system could increase willingness to turn in criminals and insurgents and strengthen rule of law and provincial security. End Summary.

Justice Sector Reform in Zabul

¶2. (U) In early 2008, the Supreme Court reformed the criminal justice system in Zabul by replacing Zabul's two reportedly timid judges with five experienced, qualified judges, all of whom reside in Qalat. They include: Chief Judge (President of the Zabul Court of Appeals) Mohammed Hakim Kunarai, Judge Akhtar Mohammed (President of the Civil Court), Judge Eid Mohammed (President of the Public Security, i.e., NDS Court), Judge Mohammed Salim (President of the Qalat City Court), and Judge Abdul Ali Baluch (Member of the Public Security Court). The Ministry of Justice (MoJ) also sent a new Chief Prosecutor (i.e. Attorney General), Hajji Seraj, to Zabul to replace the former provincial Attorney General. Though new Chief Judge Hakim stresses the judiciary's independence, he maintains cordial relationships with Governor Delbar Jan Arman and Deputy Governor Gulab Shah Alikhel. The three agree the rejuvenated justice system needs to prosecute and sentence, or if found not guilty, release the more than fifty insurgent suspects currently held at the Zabul Provincial Prison and NDS detention facility.

First Sentences Delivered at Orchestrated Hearing

¶3. (U) Judge Hakim presided over the Court of Appeals' first sentencing hearing, with Judges Mohammed Salim and Akhtar Mohammed comprising the rest of the Supreme Court-mandated three-judge panel. Prosecutors Abdur Rahim and Atiqullah represented the MoJ. The Deputy Governor, Provincial Chief of Police COL Mohammed Yaqoub, Chair of the Provincial Council (PC) Hajji Mohammed Hashem, other PC members, several line ministry department directors, and over 200 tribal elders, including 15 mullahs, attended the hearing. An Ariana TV crew from Kandahar filmed the proceedings, and several local journalists, along with Zabul's Youth, Information and Culture Director, Bismallah Loddin, also recorded the event.

¶4. (U) Hakim summarized the case and the charges against the defendants. The ANP apprehended a total of 30 suspects in connection with the August 10, 2006 murders of 10 Shajoy District residents and the wounding of six others. According to ANP reports, the defendants murdered the victims and stole a vehicle and personal property. At the time of their arrest, the ANP found guns and ammunition in the suspects' possession; some of the defendants' clothes also bore blood stains. The group's leader, Habibullah, made several attempts to explain the weapons and ammunition, but the ANP refuted each. Ultimately, the group confessed, but denied any Taliban connections.

¶5. (U) Habibullah and one of the victims' fathers were permitted to make statements to the court. Habibullah admitted he was a thief but claimed he was innocent of the murders and had no Taliban connections. He offered no evidence, but directed accusatory statements at others, such as claiming the ANP who arrested him were Taliban. Following Habibullah's statement, one of the victims' fathers said the defendants' families did not know each other and no personal or tribal vendettas were involved in the murders. He also claimed Habibullah and the other defendants were Taliban and suggested all 19 be publicly beheaded.

¶6. (U) Following a 20 minute closed door deliberation, Judge Hakim pronounced all 19 defendants guilty. He said he considered the role each individual played when deciding their sentences. He sentenced Habibullah and four other defendants to death, and the other fourteen to life in prison. He noted he would have sentenced one more defendant to death, but was legally unable because that individual was under 18 years of age at the time of the crime.

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Corruption Still a Factor

¶7. (SBU) During private meetings, the Deputy Governor and Judge Hakim both indicated corruption played a role in the case. The Deputy Governor said ANP or MOJ corruption might have led to the release of four of the suspects, escape of two, and caused one suspect to go "missing." Judge Hakim, speaking to PRTOff the day before the sentencing, claimed that an anonymous caller had offered him USD 60,000 to release all 19 defendants.

¶8. (SBU) Despite indications of corruption, the case and hearing were a giant leap forward for rule of law in Zabul province. The PRT will track public sentiment about this case and others to determine their impact among popular conceptions of rule of law. Improved perceptions of the Zabul judicial system could encourage locals to pass tips to ANP and NDS officers, increasing the justice system's ability to prosecute criminals and unlawful anti-government elements.

WOOD